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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In Re:

EASTERDAY RANCHES, INC., *et al*,
Debtors.¹

Chapter 11

Lead Case No. 21-00141-WLH11
Jointly Administered

**WASHINGTON TRUST BANK'S
OBJECTION TO THE PROPOSED
REVISED FINAL ORDER
AUTHORIZING DEBTOR
EASTERDAY FARMS TO USE
CASH COLLATERAL AND
GRANTING ADEQUATE
PROTECTION**

I. INTRODUCTION

Washington Trust Bank ("Washington Trust"), by and through its attorneys Trevor R. Pincock and Jed W. Morris of Lukins & Annis, P.S., objects to the proposed Final Order Authorizing Debtor Easterday Farms to Use Cash Collateral and Granting Adequate Protection (the "Final Order").

¹ The Debtors along with their case numbers are as follows: Easterday Ranches, Inc., (21-00141-WLH11) ("Ranches") and Easterday Farms, a Washington general partnership (21-00176-WLH) ("Farms").

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II. OBJECTIONS

1
2 1. Washington Trust does not consent and objects to the proposed Final
3 Order's provisions for a Carve-Out and segregated account for professional fees.
4

5 The Bankruptcy Code does not provide any basis for the proposed Carve-
6 Out or segregated account for professional fees contemplated in the Final Order
7 over a secured creditor's objection. These provisions in the Final Order are an
8 improper attempt to subordinate Washington Trust's secured claim to the fees of
9 the Debtor's professionals.
10

11 In an effort to convince the Court that a Carve-Out and/or segregated
12 account is appropriate, Debtor asserts that there is sufficient adequate protection in
13 the form of an equity cushion in certain real property in which it has an ownership
14 interest. Debtor provided a real estate appraisal for a storage complex it owns (the
15 "Storage Complex"). Debtor also provided an appraisal for farm ground known as
16 the "Cox Farm" in which it only owns 7.1 percent; Easterday Ranches, Inc. owns
17 66.1 percent; and the remaining 26.8 percent interest is owned by several non-
18 debtor individuals.
19

20 With respect to the Cox Farm, based on the multiple ownership interests
21 (most notably the 26.8 percent ownership by several non-debtor individuals) a
22 suggestion that the Cox Farm can be sold to provide adequate protection is
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1 speculative at best. Debtor has not provided any evidence that the several non-
2 debtor individuals will agree to sell the Cox Farm. As a result, equity in the Cox
3 Farm does not provide any adequate protection to Washington Trust.
4

5 Therefore, equity in the Storage Complex is the only asset available in
6 which the Debtor can provide adequate protection for Washington Trust's \$45
7 million claim. The Debtor asserts that there is a \$14.1 million equity cushion in
8 the Storage Complex, which is based on an assumption that the appraisal is
9 accurate and that the property will actually sell for that amount. This equity
10 cushion does not account for selling costs, which are estimated at 10 percent and
11 reduces the equity to approximately \$12,600,000.00.
12

13 Washington Trust does not believe that a \$12.6 million equity cushion is
14 sufficient adequate protection under the circumstances.
15

16 Washington Trust has no confidence in the budget numbers provided by
17 Debtor's management team. Paladin has repeatedly revised the budget numbers
18 without explanation or justification and told Washington Trust that the budget
19 numbers are guesses. See Declaration of Claire M. Baker, ¶¶ 4, 5. Based on the
20 best information that Washington Trust has available, the net diminution in value
21 of the bank's collateral, including the loss of the Ranches feed payments, is
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1 approximately \$21,000,000, for which Debtor is offering approximately
2 \$12,600,000 in equity in the Storage Complex as adequate protection. Id. at ¶ 14.

3
4 In addition to the uncertainty regarding the proposed budget and diminution
5 of Washington Trust's collateral, in the event Debtor needs or seeks DIP financing
6 the Storage Facility is the only asset Debtor has in which it can provide security for
7 a DIP loan². Therefore, any available equity in the Storage Complex must be
8 reduced by the amount of an anticipated DIP loan.
9

10 Any equity cushion in the Storage Complex is further eroded by the
11 possibility that there is not as much cash collateral available as anticipated. For
12 example, the Unsecured Creditors Committee for Easterday Ranches, Inc. filed an
13 Omnibus Response (Doc 427) stating that Ranches should not make \$5.450 million
14 in payments to Farms for feed. If Ranches prevails on this argument, there will be
15 less cash collateral available to fund the Wheat Plan and farm operation and the
16 necessity of DIP financing in an increased amount will become more likely,
17 thereby reducing any equity cushion in the Storage Complex.
18
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21 For these same reasons, Washington Trust objects to the proposed Final
22 Order's provision to provide an additional deposit of \$250,000 for Professional
23 Fees in the event of default on the final cash collateral order.
24

25 ² The Second Supplement to Debtors' Omnibus Reply in Support of Cash
26 Collateral Motions (Doc 428) states that Debtor is continuing to review its funding
options, including the possibility of debtor in possession financing if necessary, ...

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1 Based on the forgoing, a Carve-out or segregated account of professional
2 fees is not appropriate.
3

4
5 2. Washington Trust also objects to the proposed budget's disbursement
6 for "Real Estate Pre-Sale Costs" to the extent these costs are not related to real
7 estate owned by Farms.
8

9 Upon information and belief, the \$500,000 disbursement for "Real Estate
10 Pre-Sale Costs" includes costs associated with selling real estate owned by
11 Easterday Ranches, Inc. Washington Trust's cash collateral should not be used to
12 pay administrative expenses associated with selling property owned by Ranches
13 unless the Final Order provides: 1) for an allocation and reimbursement to Farms
14 of any and all Farms' funds used to pay Ranches administrative expenses, and 2)
15 that Ranches provides Washington Trust with adequate protection in the form of a
16 lien or security interests in its assets and property. Adequate protection in
17 Ranches' assets and property is appropriate if Farms' funds are being used to
18 protect Ranches' assets and property.
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24 3. Based on the Ranches' Unsecured Creditors Committee's assertion in
25 its Omnibus Response that Ranches should make no further payments to Farms for
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1 feed, Washington Trust objects to the budget's proposed operating disbursement of
2 \$1.358 million for Feed – 3rd Party (Consumed & Not Paid). Washington Trust
3 understands that these are payments to third parties for feed that was ultimately
4 delivered to Ranches and for which said third-parties asserted statutory liens
5 against Ranches. These appear to be payments that Ranches should ultimately be
6 responsible to pay, and it's unclear why Farms is paying for these Ranches
7 expenses.
8

9
10 As set forth above, Washington Trust's cash collateral should not be used to
11 pay Ranches' administrative expenses unless the Final Order provides: 1) for an
12 allocation and reimbursement to Farms of any and all Farms' funds used to pay
13 Ranches administrative expenses, and 2) that Ranches provides Washington Trust
14 with adequate protection in the form of a lien or security interests in its assets and
15 property.
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20 4. Washington Trust objects to disbursements for Real Estate Lease
21 payments of \$230,000 in April and \$979,000 in May. Debtor has not explained the
22 \$230,000 expense in April so Washington Trust objects on the basis that this is not
23 a justified business expense. As for the \$979,000 lease payment in May, upon
24 information provided by Debtor this payment is payment on an oral lease with
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1 Easterday Dairy. Debtor has not provided evidence satisfactory to Washington
2 Trust that this is a justified business expense.

3
4 In order to resolve this objection for the time being, Debtor has agreed to
5 insert language into a Final Order substantially in the following form:

6 Notwithstanding anything to the contrary herein or in the Budget, the payments for
7 Real Estate Leases set forth in the Budget for April and May 2021 shall not be
8 made by the Debtor absent written consent of Washington Trust or by court order.
9

10 In the event language substantially in that form is inserted into a Final Order,
11 Washington Trust's objection on this disbursement will be tentatively resolved and
12 it will reserve its objection on this disbursement.
13

14 DATED this 23rd day of March, 2021.

15
16 LUKINS & ANNIS, P.S.

17
18 By s/Trevor R. Pincock
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